

The Secretary, United States Department of
Housing and Urban Development,
on behalf of

Complainant **REDACTED**

Charging Party,

v.

118 East 60th Owners Inc., and Matthew Adam
Properties,

Respondents.

¹ The Act uses the term “handicap.” This Charge uses the term “disability,” unless quoting from the Act or applicable regulations. Both terms have the same legal meaning.

delegated to Regional Counsel, the authority to issue such a Charge following a determination of reasonable cause. 76 Fed. Reg. 42462, 42465 (July 18, 2011).

The Director of the Office of Fair Housing and Equal Opportunity (“FHEO”) for the New York/New Jersey Region, on behalf of the Assistant Secretary for FHEO, has authorized this Charge because he has determined after investigation that reasonable cause exists to believe that a discriminatory housing practice has occurred. *See* 42 U.S.C. § 3610(g)(2). HUD’s efforts to conciliate this complaint were unsuccessful. *See* 42 U.S.C. § 3610(b).

II. LEGAL AUTHORITY AND FACTUAL BASIS FOR THIS CHARGE

Based on HUD’s investigation of the allegations contained in the above-mentioned verified complaint and the Determination of Reasonable Cause, Respondent is charged with violating 42 U.S.C. §§ 3604(f)(1), (f)(2), (f)(3)(B) and 3617 as follows:

A. LEGAL AUTHORITY

1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of the disability of that buyer or renter. 42 U.S.C. § 3604(f)(1)(A); 24 C.F.R. § 100.202(a)(1).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person. 42 U.S.C. § 3604(f)(2)(A); 24 C.F.R. § 100.202(b).
3. Discrimination under Section 804(f)(1) and (f)(2) includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).
4. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, any right granted or protected by Section 804 of the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b).

B. PARTIES AND SUBJECT PROPERTY

5. Complainant is a person with a mental impairment, Obsessive Compulsive Personality Disorder, that substantially limits one or more of his major life activities. Complainant is, and has been at all times relevant to this Charge, an individual with a disability as defined by the Act, 42 U.S.C. § 3602(h).
6. Complainant is an “aggrieved person” as defined by the Act, 42 U.S.C. § 3602(i).

7. Respondent Owner is a domestic business corporation registered in the State of New York that owns a 232-unit housing cooperative located at 118 East 60th Street, New York, NY, 10022 (“Subject Property”).
8. Respondent MAP is a domestic business corporation registered in the State of New York and manages the Subject Property.
9. At all times relevant to this Charge, Respondent Owner, as lessor, and Complainant, as lessee, were parties to a proprietary lease, granting Complainant occupancy of a unit in the Subject Property.

C. FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

10. In May 2003, Complainant purchased unit REDACTED at the Subject Property.
11. Complainant was first diagnosed with OCD in or about 2004.
12. In August 2015, Complainant purchased adjoining unit REDACTED along with hallway rights.
13. Complainant’s units at the Subject Property are a “dwelling” within the meaning of the Act, 42 U.S.C. § 3602(b) and 24 C.F.R. § 100.20.
14. In or around August 2015, Complainant began construction to combine his two units. During the construction, Complainant moved out of the Subject Property and lived with his fiancé and her beagle, REDACTED.
15. During the time he lived with his fiancé and spent time with REDACTED, Complainant noticed that the adverse symptoms of his OCD lessened. Specifically, with REDACTED in his life, Complainant exhibited less obsessive behavior and anxiety. Complaint experienced reduced compulsions, particularly in the compulsion to wash his hands or track objects he had touched.
16. Complainant discussed the improvements in his condition with his psychologist, REDACTED, who has been Complainant’s treating physician since October 31, 2012. REDACTED recommended that Complainant keep REDACTED as an emotional support animal. In a medical note dated February 24, 2016, Dr. REDACTED documented his findings and prescription of an emotional support animal.
17. In or around March 25, 2016, Complainant returned to the Subject Property to live in the newly combined apartment with his now wife. Complainant brought REDACTED to reside in the apartment as his emotional support animal.
18. Respondent Owner has House Rule Seventeen that provides no pet shall be harbored without the written consent of Respondent Owner.

19. On or about March 27, 2016, the resident manager of the Subject Property noticed **REDACTED**. On March 27, 2016, the building doorman told Complainant, the resident manager, Daniel Lynch, wanted to speak with him.
20. On March 28, 2016, Complainant first spoke with the Co-op Board President, Scott Curtis, to request a reasonable accommodation. Mr. Curtis told Complainant the Board would discuss the matter and that he should contact the Co-op asset manager, Ira Meister.
21. On March 28, 2016, Complainant later spoke with the resident manager, Daniel Lynch, who reminded him that he had signed a no pet agreement. Complainant informed the resident manager that **REDACTED** was his assistance animal, not a pet. The resident manager informed Complainant that he would need to notify Respondent Owner's Board and Respondent MAP's property manager that the dog living in his unit was an assistance animal.
22. On March 28, 2016, Complainant sent an email to Ira Meister, the asset manager of Respondent MAP, together with a letter dated February 24, 2016 from Dr. **REDACTED**. In that letter, Dr. **REDACTED** wrote that, due to Complainant's disability, he had prescribed an emotional support animal for Complainant. Dr. **REDACTED** letter stated that because of his disability, Complainant suffers functional limitations in daily activities and "[t]he presence of this animal is necessary for the emotional/mental health of [Complainant] because its presence will mitigate the symptoms he is currently experiencing."
23. Complainant received no response from Respondents to his reasonable accommodation request. Instead, on April 8, 2016, Mr. Meister, on behalf of Respondents, issued Complainant a "Notice of Default" dated April 5, 2016 which stated in part:

You have kept or harbored a dog in the Premises in direct violation of House Rule Seventeen, incorporated into and made a part of your Proprietary Lease...Additionally, the fact of your harboring a dog in the Premises without the Proprietary Lessor's prior written consent contravenes the Occupancy/Pet Policy Acknowledgement you executed in connection with your application to purchase the Premises.
24. The "Notice of Default" stated that Complainant needed to cure the violation by May 10, 2016.
25. On April 8, 2016, Complainant e-mailed Mr. Meister and requested again that the board review his request for reasonable accommodation.
26. On April 8, 2016, Complainant received the following response from Mr. Meister:

The Board of Directors of the Cooperative has referred this matter to the corporation counsel. Kindly refrain from communicating with me or the

Board on this matter. I would be delighted to discuss any other matter pertaining to your apartment.

27. From April 10 to May 16, 2016, Complainant boarded REDACTED at Dog Vacay, a boarding facility for dogs. During this period, the limitations caused by Complainant's disability worsened. According to Dr. Polite, during a May 11, 2016 session with Complainant, Complainant spoke of increased compulsive hand washing and a diminished ability to function at work. During that visit, Dr. REDACTED found Complainant to be more anxious than he had been prior to boarding REDACTED.
28. On May 16, 2016, Complainant brought REDACTED back to his apartment as his emotional support animal.
29. On June 15, 2016, having not received a response to his reasonable accommodation request from Respondents, Complainant filed the subject HUD complaint, wherein he provided further details in support of his reasonable accommodation request. On June 16, 2016, HUD mailed a notice of the HUD complaint to Respondents.
30. On or about June 24, 2016, Respondent Owner issued a "Ten (10) Day Notice of Termination" signed by its board president, terminating Complainant's tenancy effective July 11, 2016.
31. On July 8, 2016, Respondent Owner and Complainant executed an agreement that allows Complainant to retain REDACTED and remain in his apartment, pending HUD's investigation into this matter, and during which time Respondent Owner will refrain from filing legal proceedings against Complainant. The Agreement, however, permits Respondent Owner, at the conclusion of the investigation, to institute eviction proceedings because of the presence of his assistance animal. Complainant to this date remains under threat of losing his apartment because Respondents refuse to allow him to keep REDACTED.
32. As a result of Respondents' discriminatory actions, Complainant has suffered actual damages, including, but not limited to, out-of-pocket expenses and emotional distress.

D. FAIR HOUSING ACT VIOLATIONS

33. As described above, Respondents discriminated against Complainant by attempting to make housing unavailable to him because of his disability when they refused to grant Complainant his requested reasonable accommodation when such accommodation was necessary to afford Complainant an equal opportunity to use and enjoy his dwelling and issued a notice terminating his tenancy. 42 U.S.C. § 3604(f)(1) and (3)(B); 24 C.F.R. §§ 100.202(a)(1) and 100.204(a).
34. As described above, Respondents discriminated against Complainant in the terms, conditions, or privileges of sale of a dwelling, or in the provision of services or facilities

in connection with such dwelling, because of his disability when they refused to grant Complainant his requested reasonable accommodation when such accommodation was necessary to afford Complainant an equal opportunity to use and enjoy his dwelling. 42 U.S.C. § 3604(f)(2) and (3)(B); 24 C.F.R. §§ 100.202(b) and 100.204(a).

35. As described above, Respondent coerced, intimidated, threatened, and interfered with Complainant's exercise or enjoyment of, and on account of his having exercised, his rights under the Act. 42 U.S.C. § 3617; 24 C.F.R. § 100.400(b).

III. CONCLUSION

WHEREFORE, the Secretary of HUD, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(f)(1), (f)(2), (f)(3)(B), and 3617 and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents as set forth above violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondents, its agents, employees, and successors, and all other persons in active concert or participation with it, from discriminating because of disability in any aspect of the sale, rental, use, or enjoyment of a dwelling pursuant to 42 U.S.C. § 3612(g)(3);
3. Enjoins Respondents, its agents, employees, and successors, and all other persons in active concert or participation with it, from coercing, intimidating, threatening, or interfering with the Complainants or any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted by the Act pursuant to 42 U.S.C. § 3612(g)(3);
4. Mandates Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein; prevent similar occurrences in the future; and take fair housing training;
5. Awards such damages pursuant to 42 U.S.C. § 3612(g)(3) as will fully compensate Complainants for damages caused by Respondents' discriminatory conduct;
6. Awards a civil penalty against Respondents of \$19,787.00 for each violation of the Act; or \$49,467.00 for each violation of the Act, in the event that Respondents have been adjudged to have committed one prior discriminatory housing practice during the last 5 years; or \$98,935.00 if the Respondent has been adjudged to have committed two prior discriminatory housing practices during the last 7 years, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and

7. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,



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